United States Court of Appeals

for the Second Circuit

PETITION FOR REHEARING

74-2447

Docket No.
74-2447

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Pages

UNITED STATES COURT OF APPEALS

for the

SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

CATHERINE BRIGHT,

Defendant-Appellant.

On Appeal From the United States District Court for the Southern District of New York

PETITION FOR REHEARING OF APPELLANT CATHERINE BRIGHT

J. TRUMAN BIDWELL, JR.
30 Rockefeller Plaza
New York, New York 10020

Attorney for Catherine Bright

Of Counsel:

Mark A. Saunders

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PETITION OF CATHERINE BRIGHT
FOR A REHEARING

A. PRELIMINARY STATEMENT OF FACT

On May 21, 1975, this Court reversed the conviction of Bright under 18 U.S.C. § 1708 and remanded her case to the United States District Court for the Southern District of New York for a new trial. A copy of the Court's opinion is attached hereto as Exhibit A. The Court based its opinion on the ground that a challenged jury charge was erroneous and substantively prejudicial to Bright. In so ruling, however, this Court also sustained the district court's exclusion of certain psychiatric testimony which the defense sought to introduce at trial. Bright hereby seeks this Court's reconsideration

of its ruling with respect to such psychiatric testimony on the grounds that its decision (a) was based on incorrect assumptions of fact, and (b) ignored (i) the Fifth and Sixth Amendments to the United States Constitution, (ii) local law and (iii) the ruling of the United States Court of Appeals for the Fourth Circuit in Rhodes v. United States, 282 F.2d 59 (4th Cir.), cert. denied, 364 U.S. 912 (1960).

B. ARGUMENT

Point I

THIS COURT'S RULING WAS BASED UPON INCORRECT ASSUMPTIONS OF FACT AND DENIED BRIGHT HER RIGHTS UNDER THE FIFTH AND SIXTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

In holding inadmissible the psychiatric testimony proffered on Bright's behalf, this Court stated:

> "Nor was the proferred testimony to show that appellant did not have the capacity to form a specific intent to commit the crime."
>
> Exhibit A, at A-5.

Bright submits that such statement is simply inaccurate. Indeed, trial defense counsel took pains to point out that the psychiatric testimony in question would have been offered for the express purpose of negating Bright's capacity to

form the specific intent - knowledge - required for the commission of a crime under 18 U.S.C. § 1708. In seeking to introduce the testimony of Dr. Weiss, a psychiatrist who had examined Bright before trial, trial defense counsel argued:

> ". . . we intend to produce psychiatric testimony bearing upon the mental condition of the defendant at the time of the alleged crime, specifically relating to the element of knowledge, knowledge that the checks were stolen." (emphasis added)
>
> Exhibit B, at B-1.

Trial defense counsel further stated that he sought to introduce the proffered testimony:

> ". . . to oppose one of the elements of the crime which the Government has the burden of proving, to wit, that the defendant knew that the checks were stolen."
>
> This is simply offered, like any other evidence, to negate one of the items the Government has the burden of proof on, and that is the point about the . . . Rhodes case which I cite in my memorandum."
>
> Exhibit B, at B 2-3.

Bright should have been allowed to introduce the proffered testimony for the express purpose of negating the specific intent which is an element of the crime with which she had been charged. Bright was charged with possession of stolen welfare checks under 17 U.S.C. § 1708. To convict Bright

of this crime, the Government had to prove beyond a reasonable doubt that Bright knew such checks were stolen. Dr. Weiss would have testified that Bright suffered from a personality disorder which, in effect, made it impossible for her to have knowledge of such fact. Bright submits that such exclusion of testimony relative to an essential element of the crime with which she had been charged violates her common law rights as well as her rights under the Fifth and Sixth Amendments to the Constitution of the United States, all as more fully set forth at pages 1 through 35 of her initial appellate brief submitted to this Court.

This Court's opinion was also based on a second fundamental misassumption of fact. In affirming the exclusion of the psychiatric testimony offered on Bright's behalf, the Court stated:

> "We think the testimony offered was not sufficiently grounded in scientific support to make us reach or, indeed, cross the present frontier of admissibility."
>
> Exhibit A, at A 5-6

Bright submits that this statement by the Court simply begs the question of whether the psychiatric testimony should have been admitted into evidence. In the case at bar, an offer of proof was made with respect to such testimony.

If the trial court had had any question concerning the scientific basis for the proffered psychiatric testimony, it could, and should, have made inquiry with respect thereto. But no such inquiry was made, and there is no evidence in the trial record with respect to the scientific basis of the proffered testimony for one simple reason - the trial court excluded the testimony as irrelevant, regardless of the basis therefore. Had such evidence been deemed relevant by the trial court, Bright was prepared to show that the proffered testimony had a basis in scientific fact.

Point II

THIS COURT'S RULING IGNORED FEDERAL AND LOCAL PRECEDENT RELATIVE TO THE ADMISSIBILITY OF PSYCHIATRIC TESTIMONY

In its decision this Court also ignored the holding of the United States Court of Appeals for the Fourth Circuit in Rhodes v. United States, 282 F.2d 59 (4th Cir.), cert. denied 364 U.S. 912 (1960), and sub silentio thus created a conflict in the rulings of two circuit courts of appeal. Bright respectfully urges that the Rhodes case should be controlling with respect to the point in issue.

As noted by the Fourth Circuit in the Rhodes case:

> While it is true that the defense of insanity was not advanced, it was still open to the defendant to introduce psychiatric testimony to show that by reason of his mental condition he was unable to form the requisite intent or mens rea which is an essential element of the crime charged.
>
> An intent beyond the mere doing of the act is not invariably required. Where, however, it is inherent in the offense, or the statute creating it prescribes as part of the definition that a specific state of mind shall accompany the act, as this statute does[*], a full exposition of the pertinent evidence is permitted if properly tendered.
>
> Long ago this was treated as established doctrine in Hopt v. People, 1881, 104 U.S. 631, 26 L.Ed. 873, . . . Psychiatric testimony, if it has a bearing upon this issue, has a rightful place in the record. (Emphasis added)
>
> 282 F.2d at 59, 60-61 (footnotes omitted).

Bright believes that this Court cannot correctly ignore the Rhodes case, and submits that such precedent indicates that the psychiatric testimony in question should have been admitted into evidence at her trial in the district court.

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[*] Compare, 18 U.S.C. § 1708.

And finally, Bright notes that under the law of the forum state of this Court, the proffered psychiatric testimony in question would have been admitted into evidence. People v. Moran, 249 N.Y. 179, 163 N.E. 553 (1928); People v. Colavecchio, 11 App. Div. 2d 161, 202 N.Y.S. 2d 119 (4th Dep't 1960). As noted by the court in the Colavecchio case:

> The defense should have been permitted to place in evidence the testimony of the psychiatrist, who had recently examined appellant. The trial court was of the opinion that the testimony must be relevant to a defense under section 1120 [the crime of grand larceny] of the Penal Law to establish that defendant was laboring under such a defect of reason as not to know the nature and quality of the act he was doing and not to know that the act was wrong.
>
> . . .
>
> In the comment to [Model Penal Code § 4.02 (Tent. Draft No. 4)] it is said in part that 'If states of mind such as deliberation or premeditation are accorded legal significance, psychiatric evidence should be admissible when relevant to prove or disprove their existence to the same extent as any other relevant evidence.'
>
> In the posture in which this appeal comes to us we conclude that the rejected testimony was admissible not for the purpose of exempting defendant from criminal responsibility under the insanity test, but as bearing upon the question of whether he possessed, at the time he committed the act, the necessary criminal intent proof of which was required to convict under the first count of the indictment.
>
> 11 App.Div.2d at 164-65, 202 N.Y.S.2d at 122-23.

Although Bright realizes that this Court is not bound by such state law, she nevertheless submits that such precedent would and should mandate the admission of the psychiatric testimony proffered on her behalf in the present case.

C. CONCLUSION

For the foregoing reasons, Bright respectfully requests this Court to grant her a rehearing or, in the alternative, a rehearing en banc to reconsider its ruling with respect to the admissibility of the psychiatric evidence proffered on her behalf at trial.

Dated: New York, New York
July 3, 1975

Respectfully submitted,

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Attorney for Catherine Bright

Of Counsel:

Mark A. Saunders

EXHIBIT A

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

No. 754—September Term, 1974.

(Argued March 10, 1975 Decided May 21, 1975.)

Docket No. 74-2447

UNITED STATES OF AMERICA,

Appellee,

—v.—

CATHERINE BRIGHT,

Defendant-Appellant.

Appeal from a judgment of conviction in the United States District Court for the Southern District of New York, Motley, *J.*, entered after jury verdicts of guilty on three counts of possession of stolen mail in violation of 18 U.S.C. § 1708. *Held:* The charge was insufficient on the element of requisite knowledge that the items of mail were stolen.

Reversed and remanded for a new trial.

J. TRUMAN BIDWELL, JR., New York, N.Y., *for Defendant-Appellant.*

T. BARRY KINGHAM, Assistant United States Attorney, Southern District of New York (Paul J. Curran, United States Attorney and John D. Gordan III, Assistant United

States Attorney, Southern District of New York, of counsel), *for Appellee.*

Before:

MOORE, MANSFIELD and GURFEIN,

Circuit Judges.

GURFEIN, *Circuit Judge:*

Catherine Bright appeals from a judgment of conviction entered on November 6, 1974, after a jury trial in the United States District Court for the Southern District of New York, Hon. Constance Baker Motley. She was found guilty on three counts of possession of stolen mail in violation of Title 18, United States Code, Section 1708, and received a six month suspended sentence and six months probation.[1]

Appellant presses two points on this appeal. First, she argues that the District Court committed error in failing to permit the defense to introduce psychiatric evidence to negate her knowledge that the checks were stolen, although no insanity defense was tendered. Second, she argues that the District Court committed reversible error in its charge to the jury with respect to the element of knowledge required under 18 U.S.C. § 1708. We affirm the District Court on the first of these contentions, but reverse on the charge to the jury.

---

1 The indictment charged the defendant with twelve counts of possession of stolen mail in violation of 18 U.S.C. § 1708. She was found guilty on three counts and not guilty on four counts. Five counts had been dismissed upon the government's motion, three before evidence had been introduced and two after the jury had begun its deliberations.

Section 1708 reads in pertinent part: "Whoever . . . unlawfully has in his possession . . . any . . . mail . . . which has been so stolen, . . . knowing the same to have been stolen, . . . [s]hall be fined. . . . or imprisoned . . . ."

It is uncontested that appellant had been in possession of some nine welfare checks at various dates during 1972, and that these checks had been stolen from the mail. The checks had been in the possession of one Fred Scott, an acquaintance of appellant's "boyfriend" Leslie; Scott gave Bright the checks to cash for him on the pretense that he had no bank account of his own. Appellant admitted at trial that she had cashed or deposited the checks in question in the two accounts she had at her bank, but swore that she had not known that they were stolen. She testified that Scott had told her that he had received the checks in payment for debts or rent owed to him.

She testified that on one occasion, when a check she had cashed had been returned unpaid and her account charged accordingly, she confronted Scott who made good on the loss. After that incident, she cashed three more checks for Scott. The three counts of her conviction are based on her cashing the latter three checks.

I.

At trial, the appellant's defense was based upon her purported lack of knowledge that the checks had been stolen and her naive belief that everything Scott told her was true. Appellant testified in her own behalf accordingly.

In support of her contention that she did not know the checks were stolen, appellant sought to introduce testimony by Dr. Norman Weiss, a psychiatrist who examined appellant on August 21, 1974 before trial. The trial court excluded the proffered testimony and appellant assigns the exclusion as reversible error on alleged constitutional grounds under the Fifth and Sixth Amendments to the United States Constitution.

Though Dr. Weiss examined appellant only once, he was prepared to testify, as indicated in a letter he addressed

to defense counsel, that "though I do not consider Ms. Bright to have been suffering mental illness, I believe that her dependent, childlike character structure unconsciously 'needed' to believe that these men would never involve her in illegal activities and that Leslie [her boyfriend] could do no wrong. I believe that at the time of the alleged crime, because of this unconscious 'need,' she did not think that the checks had been stolen."

He later suggested, "I do not believe that she knew that the checks that she allegedly possessed were stolen as a result of her need to deny the possibility that the men involved would in any way take advantage of her. This passive-dependent personality disorder rendered her incapable of understanding this."

Appellant argues that the proffered psychiatric testimony should have been admitted for the purpose of showing her inability to know that the checks had been stolen, a requisite element under Section 1708. Counsel for appellant before Judge Motley specifically disavowed the assertion of an insanity defense under *United States* v. *Freeman*, 357 F.2d 606 (2 Cir. 1966). We hold the trial court did not err in rejecting the testimony.

The proffered testimony was a weak reed. The hurried diagnosis prepared for an advocate for purposes of trial would simply tender an opinion by the psychiatrist, not that appellant was suffering from mental disease, or that she lacked substantial capacity either to appreciate the wrongfulness of her conduct or to conform her conduct to the requirements of law, but that, on the basis of this single examination, the psychiatrist was of the opinion that appellant had a "passive-dependent personality disorder." A.L.I. Model Penal Code § 4.01 (Proposed Official Draft 1962); *United States* v. *Freeman*, *supra*. Couched in simpler language he was prepared to testify that appellant

was a gullible person but a person unaffected either by psychosis or neurosis.

Nor was the proffered testimony to show that appellant did not have the capacity to form a specific intent to commit the crime. Concededly she was quite capable of the mental responsibility required to cash a stolen check and to recognize circumstances that would lead to the suspicion that it was stolen. The interposition by Dr. Weiss was simply that this particular man, Leslie, was in such a relationship to the passive-dependent personality on trial that she had to believe him when he told her the checks were not stolen.

In dealing with forensic psychiatry we must be humble rather than dogmatic. The mind and motivation of an accused who is not on the other side of the line under the *Freeman* test, is, by the judgment of experience, left to to the jury to probe. The complexity of the fears and long-suppressed traumatic experiences of a lifetime is in the personality of all of us. All humankind is heir to defects of personality.

To transmute the effect of instability, of undue reliance on another, of unrequited love, of sudden anger, of the host of attitudes and syndromes that are a part of daily living, into opinion evidence to the jury for exculpation or condemnation is to go beyond the boundaries of current knowledge. The shallower the conception the deeper runs the danger that the jury may be misled. See *United States* v. *D'Anna*, 450 F.2d 1201, 1204-05 (2 Cir. 1971). And cf. *United States* v. *Brawner*, 471 F.2d 969, 998-1002 (D.C. Cir. 1972) (en banc) (mental condition of specific intent).

In short, appellant asks us to go beyond the boundaries of conventional psychiatric opinion testimony. We think the testimony offered was not sufficiently grounded in

scientific support to make us reach or, indeed, cross the present frontier of admissibility. On the instant appeal we need decide no more than that Judge Motley did not abuse her discretion in rejecting the opinion evidence.

II.

We turn then to the contention that the District Judge erred in charging the jury on the element of knowledge required under 18 U.S.C. § 1708, and that this constituted reversible error. In the circumstances we agree.

The issue of knowledge was the only issue in dispute at appellant's trial. In all cases involving the receipt or possession of stolen goods, the definition of the requisite "knowledge" that the goods were stolen, required for a conviction, makes the difference between guilt and innocence. The test is not a technical one requiring a grudging adherence to some abstract standard. The standard should always embrace the ultimate concept of *mens rea*. A negligent or a foolish person is not a criminal when criminal intent is an ingredient. On the other hand, the lack of direct proof that the defendant knew that the goods were stolen is, in the nature of the case, not fatal to conviction. Circumstantial evidence may suffice, but the jury must understand that to convict it must find beyond a reasonable doubt that the defendant willfully and knowingly possessed the goods, knowing them to have been stolen. Without that abiding belief on the part of the jury, there should be no conviction.

Though some may say, quite properly, that subtle nuances in a judge's charge fall on deaf ears, there is no assurance that this is so. The juror's difficult task of probing the mind and will of another person is hard enough with the aid of a charge that balances the countervailing considerations. His verdict becomes suspect when he has

not had the benefit of a balanced instruction from the court.

To put it somewhat differently, it is common ground that negligence alone will not suffice. Nor will a reckless disregard of whether the bills were stolen, standing by itself. Such reckless disregard must be coupled with a conscious purpose to avoid learning the truth. And even if these two tests are in conjunction the jury should still be advised that if they, nonetheless, fail to find that the defendant actually believed that the property was stolen, they should acquit.

The draft of the Model Penal Code of the American Law Institute, *supra,* provides:

> "When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person is aware of a high probability of its existence, unless he actually believes that it does not exist." § 2.02(7)

This coupling of the "high probability" test with its negation by an actual belief of the non-existence of the fact has been accorded "at least nodding approval in *Leary* v. *United States*, 395 U.S. 6, 46 n.93, 89 S. Ct. 1532, 23 L. Ed. 2d 57 (1969) and perhaps more than that in *Turner* v. *United States*, 396 U.S. 398, 416 & n.29, 90 S. Ct. 642, 24 L. Ed. 2d 610 (1970)." *United States* v. *Jacobs*, 475 F.2d 270, 287 (2 Cir.), *cert. denied sub nom. Lavelle* v. *United States*, 414 U.S. 821 (1973).

In *Jacobs*, the trial court charged:

> "Guilty knowledge cannot be established by demonstrating merely negligence or even foolishness on the part of a defendant. However, it is not necessary that the government prove to a certainty that a defendant knew the bills were stolen. Such knowledge is

established if the defendant was aware of a high probability that the bills were stolen, *unless the defendant actually believed that the bills were not stolen.* . . .

"Thus if you find that a defendant acted with reckless disregard of whether the bills were stolen *and* with a conscious purpose to avoid learning the truth the requirement of knowledge would be satisfied, *unless the defendant actually believed they were not stolen.*" (Emphasis added). 475 F.2d at 287, n.37.

This court affirmed a conviction based on this charge because it was a balanced charge which had not permitted the "reckless disregard" portion of the charge to stand in isolation.

The problem arose more recently in *United States* v. *Brawer*, 482 F.2d 117, 128 (2 Cir. 1973) where the court sustained the charge as a balanced charge. There Judge Pollack charged:

"An inference of the existence of knowledge may be drawn from evidence that the defendant was aware of a high probability that the bills were stolen, *unless the jury were to find that the defendant actually believed the bills were not stolen.*" (Emphasis added). 482 F.2d at 128, n.14.

We turn to the record on appeal.

In the main charge, the District Judge properly charged that "before you find the defendant guilty, you must find beyond a reasonable doubt that she knew the checks were stolen at the time she possessed the checks. If you find that the defendant did not know the checks were stolen, then of course you must acquit the defendant."

The court also charged, after explaining the statutory presumption of recent possession, see *Barnes* v. *United States*, 412 U.S. 837 (1973), as follows:

"You may also find that the defendant had the requisite knowledge if you find that she acted with reckless disregard as to whether the checks were stolen, but with a conscious effort to avoid learning the truth, even though you may find that she was not specifically aware of the fact which would establish the stolen character of the checks."

This was in no way balanced by an instruction that if the jury nevertheless found that "the defendant actually believed that the bills were not stolen" they should acquit.

The distinction became acute when the jury sent a note to the Court, reading as follows:

"Request clarification of the term 'reckless disregard' as pertains to whether defendant had knowledge of whether checks were stolen."

Here the jurors were zeroing in on the very concern of the American Law Institute in the Model Penal Code and we believe they should have been given the "clarification" requested.

A colloquy ensued in which defense counsel stated his position quite articulately, ending his argument as follows:

"In the *Jacobs* case, the Court said, 'Guilty knowledge cannot be established by demonstrating merely negligence or even foolishness on the part of the defendant, and the Second Circuit cited that as one of the reasons why the conscious avoidance type language was permissible, because it was counterbalanced by language saying, "But it isn't enough just to be foolish or whatever."'

"Here we are getting from the defendant's point of view only the most damning part of this kind of charge without the other balancing factor."

Despite this pointing up of the problem, the Court simply reread a single portion of the earlier charge as follows:

> "You may also find that the defendant had the requisite knowledge if you find that she acted with reckless disregard as to whether the checks were stolen *or* were [sic] a conscious effort to avoid learning the truth, even though you may find that she was not specifically aware of the facts which would establish the stolen character of the checks." (Emphasis added).

Except for a technical question about the form of the verdict, the jury asked no further questions and later returned a verdict of guilty on three counts.

Thus, at the crucial stage with the single element at issue, the defendant's "knowledge" that the checks were stolen, the instruction given was insufficient to give the jury the proper balance required. It failed to give "clarification" to the term "reckless disregard." It concluded with the statement in the disjunctive that either "reckless disregard" *or* a conscious effort to avoid learning the truth would be enough.

We assume that the use of the disjunctive "or" standing by itself would not require us to reverse. See *United States* v. *Sarantos*, 455 F.2d 877, 881-82 (2 Cir. 1972).[2] But we cannot escape the feeling that the lack of juxtaposition of the choices available in a balanced way was fatally erroneous, especially in the light of counsel's acute objections on the very point. That is not to say that a balanced result can only be achieved by the use of particular words and phrases and, of course, generally a charge must be read as a whole.

---

2 The court there said: "We do, however, urge the use of 'and' rather than 'or' in future charges on this issue." 455 F.2d at 882.

We are constrained to reverse this conviction, however, since we are not convinced that the jury applied the proper standard in weighing appellant's "knowledge," and, hence, her guilt or innocence.

Judgment reversed and remanded for a new trial.

EXHIBIT B

would just ignore them and come in here and delay the actual start of the trial by making motions that could have been made months ago.

The motion is denied on that ground.

Now, with respect to your voir dire questions, there are a couple of questions I have about that.

Are we going to have a psychiatrist testifying in this case?

MR. ZEDROSSER: Yes, your Honor.

As I indicated the last time I was before the Court, we intend to produce psychiatric testimony bearing upon the mental condition of the defendant at the time of the alleged crime, specifically relating to the element of knowledge, knowledge that the checks were stolen.

And if you may recall, at that time I handed up to the Court a copy of a report by Dr. Weiss, and since that time I've given copies of the report to Mr. Kingham as well.

MR. KINGHAM: I have an application with respect to the psychiatric testimony. I think your Honor will recall that at the time the report was handed up in court, I believe in August, your Honor noted first of all that Dr. Weiss concluded that this defendant did not suffer from any mental disease or any mental illness.

not having read the one that the Government has handed in. I am prepared to address myself briefly, however, to the points that are raised by Mr. Kingham.

THE COURT: All right.

What we plan to do this afternoon, in any event, is to select a jury and make opening statements and we will continue the trial tomorrow.

So we will proceed with that and I'll check into this matter with respect to the psychiatric testimony.

I thought you said initially you were going to call a psychologist, Mr. Zedrosser?

MR. ZEDROSSER: No. A psychiatrist.

THE COURT: And the essence of his testimony is to be what?

MR. ZEDROSSER: The essence of it is that as the result of the abnormal mental condition or mental disorder, she was incapable of knowing that the checks in question were stolen.

THE COURT: Well, that is a plea of not guilty by reason of insanity. Are you making that plea?

MR. ZEDROSSER: I am not. This is simply evidence adduced to oppose one of the elements of the crime which the Government has the burden of proving, to wit, that the defendant knew that the checks were stolen.

This is simply offered, like any other evidence, to negate one of the items the Government has the burden of proof on, and that is the point about the Browner case which I cite and the Rhodes case which I cite in my memorandum.

THE COURT: All right.

As I said, I'll take that up later.

Now with respect to these voir dire questions, getting back to that, we got off on this, going over these voir dire questions, what is this religious or psychological group with emphasis on the individual's free will or lack of free will?

MR. ZEDROSSER: Well, since we anticipated offering psychiatric testimony, we are trying to ferret out whether anybody is in effect prejudiced against such testimony because of some belief, whether it be religious or philosophical, that people always are in full command of their faculties, all people are normal, all people are the same, this kind of thing.

It is one of the expected issues in this case, as are in fact most of the others that I've indicated in the memorandum.

THE COURT: There are such religious or philosophical groups which emphasize the individual's free will or

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

NATHANIEL P. ROGERS, being duly sworn, deposes and says:

1. I am over the age of 18 years and am not a party hereto.

2. On the 3rd day of July, 1975, I served two copies of the annexed Petition for Rehearing by mail upon:

United States Attorney
1 St. Andrews Plaza
Foley Square
New York, N. Y. 10007

Nathaniel P. Rogers

Sworn to before me this
3rd day of July, 1975.

Notary Public

THOMAS J. CERNA
Notary Public, State of New York
No. 60-0607760
Qualified in Westchester County
Certificate Filed in New York County
Commission Expires March 30, 1977